

Section II. Additional Sentencing Provisions Relating to Felonies

Life Without Parole

Class A felonies are punishable by death or life imprisonment without parole. Offenders convicted of first-degree rape or sexual assault (Class B1) in Prior Record Levels V and VI may be sentenced to life imprisonment without parole if the court sentences from the aggravated sentence range. Certain offenders convicted of second or subsequent Class B1 felonies are punishable by life imprisonment without parole. Felons sentenced under the violent habitual felon provisions are punishable by life imprisonment without parole. Offenders sentenced to life imprisonment without parole are not eligible for parole. Only the Governor has the authority to commute the sentence. See G.S. 15A-1340.17(c)(1), 15A-1368.1, 15A-1370.1, and 15A-2002.

Case Law

- Structured Sentencing's provision for life imprisonment without parole is a punishment authorized by the North Carolina Constitution, is within the General Assembly's constitutional authority to prescribe the minimum and maximum punishments for an offense, and does not infringe on the Governor's clemency powers.¹

Second or Subsequent Conviction for a Class B1 Felony

(For offenses committed on or after December 1, 1998)

An offender convicted of a Class B1 felony shall be sentenced to life imprisonment without parole if a jury finds that: (1) the victim was 13 years old or younger at the time of the offense, and (2) the offender has one or more prior convictions for a Class B1 felony. This section does not apply if the court finds that there are mitigating factors present. In that case, the offender is sentenced according to the Felony Punishment Chart. See G.S. 15A-1340.16B.

Egregious Aggravation for Certain Class B1 Felony Sex Offenses Against Children

(For offenses committed on or after December 1, 2008)

An offender convicted of rape of a child by an adult offender (G.S. 14-27.2A) or sexual offense with a child by an adult offender (G.S. 14-27.4A) may receive an active sentence longer than that authorized by the Felony Punishment Chart, up to and including life imprisonment without parole, if the court found that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of those crimes, so as to require a longer sentence. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim. If the court sentences the offender to a longer sentence, it must make

¹ *State v. Allen*, 346 N.C. 731, 488 S.E.2d 188 (1997).